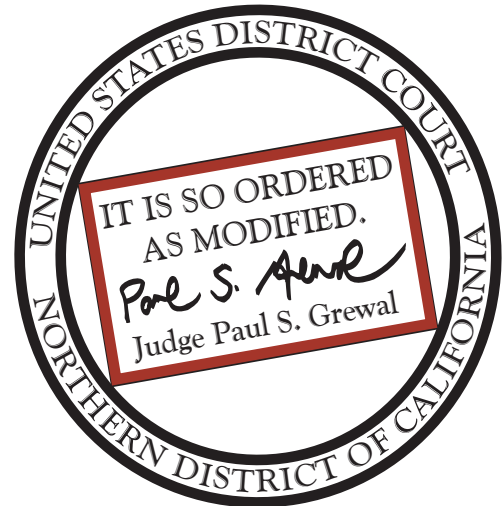


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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAYMOND VACA, individually, and on
behalf of All Others Similarly Situated for
the Benefit of All with Common or General
Interest,

Case No. 5:12-cv-01425-PSG

CLASS ACTION

Plaintiff,

**~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

vs.

TIN, INC., dba TEMPLE-INLAND, INC.,
and DOES 1-10, inclusive

Defendants.

Date: June 18, 2013
Time: 10:00 a.m.
Before: Magistrate Judge Paul Singh Grewal
Courtroom 5 - 4th Floor

1 Plaintiff's Unopposed Motion for Order Granting Preliminary Approval of Class Action
 2 Settlement came on for regularly scheduled hearing in this Court on June 18, 2013 at 10:00 a.m.,
 3 before the Honorable Paul Singh Grewal in Courtroom 5 of this Court.

4 After consideration of this Motion, the pleadings and argument of counsel, supporting
 5 declarations and documents, the Stipulation and Settlement Agreement of Class Action and
 6 Individual Claims, and other papers and pleadings on file, the Court finds and determines
 7 pursuant to Federal Rule of Civil Procedure 23 that Plaintiff's Motion for Preliminary Approval
 8 should be **GRANTED**.

9 **THE COURT FINDS:**

10 1. To the extent defined in the Stipulation and Settlement Agreement of Class Action
 11 and Individual Claims (the "Agreement"), attached as Exhibit A herewith and incorporated by
 12 reference herein, the terms in this Order shall have the meanings set forth therein.

13 2. The Court has jurisdiction over the subject matter of this action, the Defendants and
 14 the Class.

15 3. The Court has determined that the Class Notice accurately informs all persons in the
 16 Class of all material elements of the proposed Settlement --- including the plan of distribution of
 17 the Settlement Payment, the application for an incentive award to the Named Plaintiff and the
 18 application for a fee and expense award to Class Counsel, --- constitutes the best notice
 19 practicable under the circumstances, constitutes valid, due and sufficient notice to all Class
 20 Members, and complies fully with Rule 23 of the Federal Rules of Civil Procedure, the United
 21 States Constitution, and any other applicable laws. The Court hereby approves the form and
 22 content of the Class Notice, which is attached to the Agreement as Exhibit 1.

23 4. The Court hereby preliminarily approves the Settlement as fair, reasonable and
 24 adequate in all respects to the Class Members pursuant to Rule 23 of the Federal Rules of Civil
 25 Procedure.

26 5. The Settlement Class, for purposes of the proposed settlement only and with no other
 27 effect on this litigation or any other proceeding, including if the Agreement ultimately is not
 28

1 approved or final judgment is not entered, is appropriate under Fed. R. Civ. P. 23 and related case
2 law and is defined as follows:

3 All persons who, according to IP's payroll records, worked as
4 Corrugator or Converter Facilitators, Supervisors, Lead Men, or
5 Working Foremen in a plant operated by TIN, Inc. dba Temple-
Inland, Inc. in the state of California at any time between January
26, 2008 and the date of Preliminary Approval.

6 6. For purposes of the proposed settlement only, the Settlement Class, consisting of
7 approximately 110 Class Members, is sufficiently numerous that joinder is not practicable.

8 7. For purposes of the proposed settlement only, the Class Members' claims all stem
9 from the same source – their employment by Defendants as Corrugator or Converter Facilitators,
10 Supervisors, Lead Men, or Working Foremen (collectively "Class Positions"), their classification
11 as exempt employees, and their non-receipt of overtime wages for their overtime hours worked –
12 and there are questions of law and fact common to the members of the Settlement Class. The
13 questions of law and fact common to the members of the Settlement Class include:

- 14 • Whether Defendants' policy and practice of classifying the Settlement Class Members
15 as exempt from overtime entitlement and failing to pay overtime to the Settlement
Class members violates applicable law, including applicable statutory and regulatory
16 authority; and
- 17 • Whether Defendants unlawfully failed to pay compensation to Settlement Class
Members for missed meal and rest periods in violation of the UCL and applicable
18 California wage and hour laws; and
- 19 • Whether Defendants unlawfully failed to keep and furnish Settlement Class Members
with records of hours worked, in violation of applicable law.

20 As Plaintiff need only establish one common question of law or fact in order to meet the
21 low threshold set by Rule 23(a)(2), Plaintiff's above showing of common issues satisfies what is
22 required for settlement purposes.

23 8. For purposes of the proposed settlement only, the proposed Class Representative's
24 claims are typical of those of the Class that he seeks to represent because the Class Members'
25 claims all arise out of Defendants' uniform policy of classifying Class Positions as exempt, and
26 of refusing to pay them overtime compensation for overtime hours worked.

27 9. For purposes of the proposed settlement only, the proposed Class Representative has
28 fairly and adequately protected the interests of the Settlement Class. He has retained counsel

1 who have the experience and resources necessary to provide adequate representation of the
 2 Classes and meet the requirements of Rule 23(g)(1) for settlement purposes.

3 10. For purposes of the proposed settlement only, the Class Action Settlement and Plan of
 4 Distribution (“Proposed Settlement”) is preliminarily approved as follows:

- 5 • “Authorized Claimants” shares of the Net Settlement Fund, shall be calculated
 6 *pro rata* based on their weeks worked during the class period.
- 7 • Authorized Claimants who worked in a Class Position during the PAGA Period
 8 will each receive an additional lump sum payment as their share of the \$2,500 of
 9 the Net Settlement Fund which is attributable to PAGA claims. The individual
 10 lump sum payments will be determined by dividing the \$2,500 by the total number
 11 of Authorized Claimants who worked in a Class Position during the PAGA
 12 Period.
- 13 • Any amount remaining in the Settlement Fund after distribution to the members of
 14 the Settlement Class as set forth above based upon the agreed upon formula (for
 15 example due to settlement checks returned undeliverable or the failure of
 16 Settlement Class Members to negotiate settlement checks), if less than 25% of the
 17 Net Settlement Fund, will be divided equally and paid as a *cy pres* charitable
 18 contribution to the International Paper Employee Relief Fund and the Legal Aid
 19 Society of Santa Clara County. If the residual amount exceeds 25% of the Net
 20 Settlement Fund, the Settlement Administrator shall proceed with a second
 21 distribution to the Settlement Class.

22 11. For purposes of the proposed settlement only, the proposed incentive award of \$5,000
 23 to the Named Plaintiff is fair and reasonable in recognition of his time and effort expended on
 24 behalf of the Settlement Class.

25 12. Plaintiff Counsel’s (Class Counsel’s) claims for the reasonable fee and expense award
 26 will be resolved at the time of the Final Approval hearing.

27 13. For purposes of the proposed settlement only, the proposed settlement administrators
 28 are experienced and the proposed limit of \$30,000 for settlement administration services is
 reasonable in light of the administration of the Proposed Class Settlement.

In light of the foregoing and good cause appearing, the Court **GRANTS**:

- (1) Provisional Certification of the Proposed Settlement Class described as: “all persons
 who, according to IP’s payroll records, worked as Corrugator or Converter
 Facilitators, Supervisors, Lead Men, or Working Foremen in a plant operated by

TIN, Inc. dba Temple-Inland, Inc. in the state of California at any time between January 26, 2008 and the date of Preliminary Approval.”

(2) Preliminary Approval of the Settlement and plan of distribution.

(3) Preliminary Approval of the proposed incentive award of \$5,000 to the Named Plaintiff in recognition of his time and effort expended on behalf of the Settlement Class.

(4) Preliminary Approval of the proposed settlement administrator.

(5) Preliminary Approval of an amount not to exceed \$30,000 for settlement administration services.

(6) Preliminary Approval of distribution of the Settlement Notice pursuant to the terms set forth in the Agreement.

(7) Preliminary approval of the following Schedule for Final Approval of the Settlement:

Date	Action
June 18, 2013 July 2, 2013	Preliminary Approval Hearing
Within 30 days after preliminary approval is granted	Defendants will provide information to Class Counsel and the Settlement Administrator
Within 45 days after preliminary approval is granted	Settlement Administrator will mail Class Notice and Claim Form to the Class Members
Within 95 days after preliminary approval is granted	Class Counsel will move for award of reasonable attorneys' fees and costs and class representative service payment
Within 105 days after preliminary approval is granted	Deadline to return Claim Forms, opt-out, comment on or object to Settlement
Within 115 days after preliminary approval is granted	Class Counsel will move for final approval of Settlement

1 2 3	DATE December 10, 2013 at 10:00 a.m.	Final Settlement Approval Hearing/Fairness Hearing
4 5 6 7 8	Within 65 days after (a) service of notice of entry of the Final Approval Order, without any appeals or requests for review, or (b) orders affirming Final Approval Order or denying review	"Payment Obligation and Class Release Date:" Defendant to transfer settlement funds to Settlement Administrator
9 10 11 12	Within 15 days after Payment Obligation and Class Release Date	Settlement Administrator to mail Class Member settlement awards and to pay out fee and expense award, class representative service payment and PAGA Payment

(9) Should the Settlement Agreement not be finally approved, or should the Effective Date, as the term is defined in the Agreement, not occur, this Order shall be null and void and of no further force and effect, and the parties shall be restored to their respective positions prior to the execution of the Agreement. Upon such nullification, neither this Order nor the Agreement shall be used or referred to for any purpose in this action or in any other proceeding, and the Agreement and all negotiations thereto shall be inadmissible.

IT IS SO ORDERED.

DATED: July 3, 2013


THE HONORABLE PAUL S. GREWAL
United States Magistrate Judge